

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN NOAKES,)	Case No. 1:21-cv-01776
)	
Plaintiff,)	Judge Pamela A. Barker
)	
v.)	<u>DECLARATION OF RACHEL</u>
)	<u>LUTNER</u>
CASE WESTERN RESERVE UNIVERSITY,)	
<i>et al.</i> ,)	
)	
Defendants.)	

Rachel Lutner, of full age, declares as follows:

1. I am currently employed by Case Western Reserve University (“CWRU” or the “University”) as the Senior Associate Vice President – Equity and University Title IX Coordinator. I have served in these roles since June 2021.

2. I am over 21 years of age and have personal knowledge of the facts and other information set forth in this Declaration based upon my employment in the roles of Senior Associate Vice President – Equity and University Title IX Coordinator and/or my review of relevant records kept in the normal course of business.

3. As Senior Associate Vice President – Equity and University Title IX Coordinator, I maintain and have access to the University’s records concerning Title IX investigations and Title IX matters.

4. According to the University’s Title IX records:

a. During the 2020-2021 academic year, CWRU maintained an Interim Sexual Harassment Policy, available at < <https://case.edu/equity/sites/case.edu.title-ix/files/2020-08/Interim%20Sexual%20Harassment%20%20Policy.pdf>>. Effective September 13, 2021,

CWRU maintains a Sexual Harassment Policy, available at < <https://case.edu/equity/sexual-harassment-title-ix/sexual-harassment-policy>>.

b. In the fall of 2020, [REDACTED] (referred to in this Declaration as “John Noakes” or “Mr. Noakes”) and [REDACTED] (referred to in this Declaration as “Jane Roe” or “Ms. Roe”) began their studies at CWRU’s School of Medicine.

c. Mr. Noakes and Ms. Roe both reported that, in the fall of 2020, they began a romantic relationship.

d. On November 7, 2020, Ms. Roe reported to the Office of Equity that Plaintiff sexually assaulted her on October 20, 2020. Pursuant to CWRU’s Interim Sexual Misconduct Policy (the “Policy”), the Office of Equity conducted an investigation into Ms. Roe’s allegations and convened a hearing panel. Following the hearing, and based on the evidence gathered during its investigation, the hearing panel found that Mr. Noakes did not violate the Policy.

e. On April 15, 2021, CWRU notified Mr. Noakes of the outcome of its investigation. Later that same day, Mr. Noakes posted the following message on a GroupMe chat to all CWRU first year medical students, including Ms. Roe: “All glory and honor to the Most High, who is my refuge and fortress. That’s all, thanks.” Mr. Noakes also changed his GroupMe handle from “[John Noakes]” to “[John Noakes] (1-0).”

f. Ms. Roe and other students reported to CWRU that they understood this (1-0) notation to represent the “score,” i.e. Plaintiff had won round 1, while Ms. Roe had lost this time.

g. Ms. Roe submitted a complaint against Mr. Noakes alleging that his GroupMe activities were in retaliation for Ms. Roe’s filing of a Title IX complaint and that she

received a note on her car that read “f*ck you whore.” CWRU determined there was insufficient evidence to hold a hearing and closed the matter.

5. As I was not yet employed by CWRU, I had no involvement in the Office of Equity’s investigation into Ms. Roe’s allegations of sexual assault.

6. I began my employment at CWRU in June 2021.

7. On September 7, 2021, Ms. Roe complained to me that a Tumblr website contained content that she believed was in retaliation for her prior Title IX complaint against Mr. Noakes. I reviewed the posts and met with Ms. Roe to obtain information as to why she believed Mr. Noakes was involved. I then asked Plaintiff about the posts, and Plaintiff stated he had no knowledge of the posts and no obligation to look into who was posting them. On September 10, 2021, I informed Ms. Roe that there was insufficient information to connect Plaintiff to the posts, and that CWRU would not be further investigating. On September 12, 2021, Ms. Roe complained to me that the content of the posts about Ms. Roe on Tumblr were increasingly more harassing and intimidating and contained specific information about Ms. Roe and her prior Title IX complaint against Plaintiff. The posts included accusations that Ms. Roe was not clear-headed and fabricated lies about Plaintiff, that she engaged in self-destructive behaviors, that she believes she can get away with anything, and that she follows Plaintiff around and carries pepper spray with her. The posts also disclosed details only accessible to Plaintiff, including for example, screenshots originated from Plaintiff’s phone depicting text messages between Plaintiff and Ms. Roe, information regarding Plaintiff’s private discussions with his mother, a description of how [REDACTED] [REDACTED] details about “his first [REDACTED],” specific details about Plaintiff’s involvement in the Title IX proceedings and how it affected Plaintiff from his perspective,

communications between Plaintiff and the Office of Equity, communications between Plaintiff and the School of Medicine administrators, a description of how Plaintiff feels in class while interacting with others, and how Ms. Roe and other apparently look at Plaintiff when walking down the stairs.

8. In the days that followed, the posts attacked and harassed others, including student leaders in the medical school.

9. On or around September 13, 2021, I began receiving reports that members of the School of Medicine community, including CWRU employees, began receiving invitations to a new Instagram account, which posted a link to the Tumblr content.

10. I reviewed the additional posts and, on September 14, 2021, before the filing of Plaintiff's Complaint (and without any knowledge that Plaintiff may be filing a lawsuit), determined that, at that point, there was a reasonable basis to believe that Plaintiff, or someone on his behalf or working with him, may be sharing or posting information on Tumblr to intimidate, embarrass, harass, or punish Ms. Roe for filing a Title IX complaint against Plaintiff. On September 14, 2021, before Plaintiff filed the Complaint, I scheduled a meeting for September 15, 2021 at 9 a.m. to notify Ms. Roe that CWRU would be proceeding with an investigation of her retaliation complaint.

11. True and accurate copies of the Tumblr pages I reviewed are attached as Exhibit 1.

12. The investigation into the Tumblr website has not yet begun, no hearing has been set, and no findings have been made.

13. At the time I decided and communicated to Ms. Roe that CWRU would be investigating her retaliation complaint, I was not aware of Plaintiff's filing of a lawsuit.

14. I learned that a lawsuit had been filed by John Noakes on September 15 at approximately 11 a.m.

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Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: September 24, 2021

A handwritten signature in black ink, appearing to read "Rachel Lutner", is written over a horizontal line.

RACHEL LUTNER

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